



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
TEL. +1 202 736 8000
FAX +1 202 736 8711

RECEIVED
CENTRAL FAX CENTER

SEP 11 2006

FAX TRANSMISSION

Total 4 pages, including cover sheet

To: Commissioner of Patents
U.S. Patent and Trademark Office

Fax no.: (571) 273-8300

From: David A. Steffes
Tel. (202) 736-8000

Date: 11 September 2006

Re:

Serial No.: 09/993,234

Group Art Unit: 1642

Confirmation No.: 1337

Examiner: Gary B. Nickol

Filed: November 19, 2001

Atty. Docket No.: 22338-01207

Applicant: Avi J. ASHKENAZI

For: APO-2 LI AND APO-3 POLYPEPTIDES

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8

I CERTIFY THAT THE FOLLOWING DOCUMENTS ARE BEING TRANSMITTED TO THE USPTO AT FAX NUMBER (571) 273-8300 THE DATE SHOWN:

- Reply Brief to Examiner's Answer


SIGNATURE

Yvonne T. Reyes
PRINTED NAME

11 Sept 2006
DATE

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE US POSTAL SERVICE. THANK YOU.

Sidley Austin LLP is a limited liability partnership practicing in affiliation with other Sidley Austin partnerships

In Re Ashkenazi
Application No. 09/993,234
Reply Brief to Examiner's Answer

RECEIVED
CENTRAL FAX CENTER

SEP 11 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No.:	09/993,234	Confirmation No.:	1337
Applicant:	Avi J. ASHKENAZI		
Filed:	November 19, 2001		
Group Art Unit:	1642		
Examiner:	Gary B. Nickol		
Docket No.:	22338-01207		
Customer No.:	33,694		

REPLY BRIEF TO EXAMINER'S ANSWER

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is being provided under 37 CFR §41.41 in response to the Examiner's Answer mailed on July 12, 2006. This response is due within two months of the mailing date of the Examiner's Answer and is therefore being timely submitted on September 11, 2006. No fees are due in association with the filing of this communication.

In Re Ashkenazi
Application No. 09/993,234
Reply Brief to Examiner's Answer

RECEIVED
CENTRAL FAX CENTER
SEP 11 2006

REMARKS

In his answer, the Examiner withdrew the 35 U.S.C. § 112, 1st paragraph written description rejection of claim 34. Accordingly, that rejection is no longer at issue and need not be reviewed on appeal. The rejection regarding claims 34 and 36-39 and whether they are anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,153,402 ("Yu *et al.*") remains for review on appeal.

Appellant would like to bring to the attention of the Examiner/Board, the existence of an interference, No. 105,438, declared on April 18, 2006, that may pertain to subject matter related to the instant application. The present application is a divisional of and claims priority under 35 U.S.C. § 120 to the application, USSN 08/828,683, that issued into the patent involved in the interference, U.S. Patent No. 6,469,144. Appellant notes that it became aware of the existence of the interference after the original and amended appeal briefs had been filed.

Appellant concurs with the Examiner that the amino acid in positions 25 and 198 in SEQ ID NO:6 is a Gln and Arg, respectively. The sequence the Appellant presented in the Appeal Brief appears to have omitted the Gln residue at position 25 and thus shifted the remaining residues one position. However, the change does not effect the Appellant's argument as presented in the original and amended Appeal Brief with respect to the prior art effect of Yu *et al.*

Appellant is not requesting an oral hearing for the present appeal.

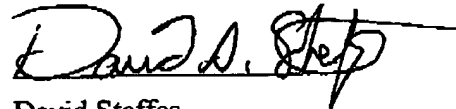
In Re Ashkenazi
Application No. 09/993,234
Reply Brief to Examiner's Answer

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Appellant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 18-1260 referencing docket no. 2233801207. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: September 11, 2006

By:



David Steffes

Registration No. 46,042

Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005
Phone: 202-736-8157

877519v1<DCI>